

STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
300 Capitol Mall, 17<sup>th</sup> floor  
Sacramento, California 95814

NOTICE OF PROPOSED ACTION AND  
NOTICE OF PUBLIC HEARING

RH-02019024

DATE: February 15, 2002

SUBJECT OF HEARING:

A hearing will be held regarding proposed changes to the regulations governing prelicensing education curriculum: specifically, the proposed regulatory changes concern personal lines broker-agent licensees. This is a new class of insurance license, and transactors in personal lines are required to be licensed by the California Department of Insurance effective January 1, 2002. The curriculum would add to the prelicensing education regulations found at California Code of Regulations, Title 10, Chapter 5, Subchapter 1, Article 6.5 Sections 2186 through 2188.9. The curriculum is already published as an Emergency Regulation (ER-42) at Section 2187.3.

AUTHORITY AND REFERENCE:

The Insurance Commissioner proposes the adoption of this regulation pursuant to the authority vested in him by the California State Legislature in Assembly Bill No. 393, Chapter 321 (1999-2000 session), section 8. The purpose of this regulation is to implement, interpret, and make specific the provisions of California Insurance Code (CIC), Division 1, Part 2, Chapter 5, Sections 1749, 1749.31, and 1749.6.

HEARING DATE AND LOCATION:

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

**Date and time:** April 2, 2002  
10:00 am  
**Location:** San Francisco Civic Center Complex  
Conference Center  
Hearing Room 9  
455 Golden Gate Avenue  
San Francisco, California 94102

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS:

All persons are invited to present oral and/or written comments at the scheduled public hearings. Written comments not presented should be addressed to the following contact person:

Elaine A. LaFrance, Staff Counsel  
California Department of Insurance  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
Telephone: (916) 492.3568

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Patricia Staggs, Assistant Chief Counsel  
45 Fremont Street, 21st floor  
San Francisco, CA 94105  
Telephone: (415) 538.4123

DEADLINE FOR WRITTEN COMMENTS:

All written materials, unless submitted at the hearings, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **5:00 p.m.** on April 2, 2002. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE:

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [lafrancee@insurance.ca.gov](mailto:lafrancee@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are sent

to the following facsimile number: (916) 324-1883. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS:

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES:

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Subchapter 4.5, Title 10, of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing, listed above. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST:

SUMMARY OF EXISTING REGULATIONS AND POLICY STATEMENT OVERVIEW:

California Insurance Code Section 1625.5 sets forth the comprehensive definition of the personal lines broker-agent license, including the requirement that the applicant for said license must complete a prelicensing education curriculum prior to becoming a licensee. California Insurance Code sections 1749, 1749.31, and 1749.6 have been amended, effective January 1, 2002, to apply prelicensing education standards already in effect with respect to life agent licensees and fire and casualty broker-

agent licensees to applicants for personal lines broker-agent licenses. The Commissioner has previously promulgated regulations found at California Code of Regulations, Title 10, Chapter 5, Subchapter 1, Article 6.5, Sections 2187, 2187.1 and 2187.2 to specifically enumerate the prelicensing education requirements for fire and casualty broker-agents and life agents. The proposed additional regulation, Section 2187.3, would accomplish the same purpose for personal lines broker-agents. The proposed amendments to Sections 2186.1, 2187.1, and 2187.2, would simply reflect the existence of a new class of license, a personal lines broker-agent license, effective January 1, 2002, and make existing regulations consistent with the California Insurance Code. The Commissioner proposes the adoption of these amendments to Sections 2186.1, 2187.1, and 2187.2, and addition of Section 2187.3, pursuant to the authority vested in him by the California State Legislature in Assembly Bill No. 393, Chapter 321 (1999-2000 session), Section 8. The purpose of these regulations is to implement, interpret, and make specific the provisions of California Insurance Code, Division 1, Part 2, Chapter 5, Sections 1749, 1749.31, and 1749.6. The proposed regulation is necessary in order to effectively administer Insurance Code Sections 1749.31 and 1749.6. The amendments to the regulations would do the following:

- 1) set forth a detailed outline of the required pre-licensing educational curriculum for personal lines broker-agents
- 2) add language to include personal lines broker-agents in the existing regulatory structure for prelicensing education
- 3) add language reflecting changes in subsection numbers and effective dates caused by the creation of the personal lines broker-agent license, to prevent inconsistencies with existing statutes.

#### EFFECT OF PROPOSED ACTION:

The major effects of the regulation is as follows:

#### Section 2186.1 - Definitions

The proposed amendment to subsection (f)(1) broadens the definition of a prelicensing education "student" to include a person seeking a personal lines broker-agent license. Previously, that subsection referred exclusively to prospective life agent licensees and fire and casualty broker-agent licensees.

### Section 2187.1 - Prelicensing Education for Life Agents

The proposed amendment to subsection (a) changes a reference to California Insurance Code section 1749(b) as the section pertaining to life agents to a reference to California Insurance Code section 1749(c) as the section pertaining to life agents. This change makes the regulation accurate and consistent in its reference to the California Insurance Code. Effective January 1, 2002, California Insurance Code section 1749(b) pertains to personal lines broker-agents and California Insurance Code section 1749(c) pertains to life agents.

### Section 2187.2 - Prelicensing Education on Ethics and the Insurance Code

The proposed amendment to subsection (a) changes a reference to California Insurance Code section 1749(c) as the section pertaining to fire and casualty broker-agents to a reference to California Insurance Code section 1749(d) as the section pertaining to fire and casualty broker-agents. This change makes the regulation accurate and consistent in its reference to the California Insurance Code. Effective January 1, 2002, California Insurance Code section 1749(c) pertains to life agents and California Insurance Code section 1749(d) pertains to fire and casualty broker-agents.

### Section 2187.3 - Prelicensing Education for Personal Lines Broker-Agents

This proposed regulation sets forth the prelicensing education curriculum for personal lines broker-agents. It is the product of workshop discussions and multiple drafts created by a subcommittee of the Curriculum Board and presented to the Curriculum Board, as required by California Insurance Code section 1749.1. It is currently published as an Emergency Regulation, ER-42. It is detailed and specific, and it allows the California Department of Insurance to effectively administer California Insurance Code sections 1749, 1749.31, and 1749.6. It provides the basis for creating prelicensing training courses, and it is necessary to the Department's purpose of ensuring that personal lines broker-agent

licensees are properly trained before they are allowed to transact insurance with the general public.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS:

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING:

The Commissioner has determined that there will be no cost or savings to any local agency, state agency or school district from the proposed regulations, and that the proposed regulation will not affect federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE:

The Commissioner has made an initial determination that the only businesses which would be impacted by the regulatory scheme are small businesses. The Commissioner has made an initial determination that the proposed amendments may have a minor, insignificant adverse economic impact directly affecting approximately 800 small businesses statewide. **It should be noted that economic costs will only be incurred by education providers who choose to offer prelicensing education curriculum for personal lines broker-agent licensees. There will be no involuntary costs imposed upon small businesses.** The Commissioner has determined that the proposed amendments will not affect the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are education providers as defined under the current regulations. They may elect to create and administer new courses designed for prospective personal lines broker-agents. **It should also be noted that the education providers who elect to develop personal lines prelicensing curriculum will be collecting revenue for offering the courses, and therefore any initial fiscal impact will be absorbed by a positive revenue flow to the small businesses involved.** The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact

on business and invites interested parties to submit proposals.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES:

The Commissioner estimates a maximum overall economic impact of this regulatory scheme in the amount of one hundred sixty thousand dollars (\$160,000.00). A representative business would initially incur approximately \$2,000 in costs if the business chose to create and offer a personal lines broker-agent training course. **It should be noted that economic costs will only be incurred by education providers who choose to offer prelicensing education curriculum for personal lines broker-agent licensees. There will be no involuntary costs imposed upon small businesses.** Annual ongoing costs would be approximately eleven dollars per year (\$11.00). The total cost estimate is based upon an estimated number of education providers, eight hundred. **It should also be noted that the education providers who elect to develop personal lines prelicensing curriculum will be collecting revenue for offering the courses, and therefore any initial fiscal impact will be absorbed by a positive revenue flow to the small businesses involved.** A private person would only incur expenses in reasonable compliance with the proposed action if the person sought to become a personal lines broker-agent and thus had to pay tuition to enroll in the prelicensing education course. This anticipated cost would be consistent with the existing costs incurred by any applicant seeing a license from the Department of Insurance, as each type of license has some prelicensing education requirement that must be fulfilled.

FINDING OF NECESSITY:

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses. A finding of necessity is built into section 8 of AB 393, the bill that created the personal lines broker-agent license.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA:

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses,

the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

#### IMPACT ON HOUSING COSTS:

The matters proposed herein will have no significant effect on housing costs.

#### ALTERNATIVES:

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

#### IMPACT ON SMALL BUSINESS:

The Commissioner has determined that the proposed amendments may affect small businesses to the extent education providers qualify as small businesses. These individuals and entities will be required to comply with the applicable amendments if they choose to offer prelicensing coursework for personal lines broker-agents.

#### COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed changes to the regulations. Upon **written or e-mailed** request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon **written or e-mailed** request, the final statement of reasons will be made available for inspection and copying once it has been



prepared. Written requests for the final statement of reasons should be directed to the contact person listed above. The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING:

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS:

Documents concerning this proceeding are not yet available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the search field appears, enter 'RH02019024' (the Department's regulation file number for these regulations). Alternatively, search for the California Insurance Code number of a code section that the regulations implement (for instance, "1749"), or search by key word ('personal lines broker-agent,' for example, or 'prelicensing curriculum'). Then, click on the "Submit" button to display links to the various filing documents.

MODIFIED LANGUAGE:

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy

of these regulations prior to adoption from the contact person listed above.

Dated: January 31, 2002

HARRY W. LOW  
Insurance Commissioner

By /s/  
Elaine A. LaFrance  
Staff Counsel